

REMARKS

In the Office Action, claims 5-9 and 12-17 were withdrawn from consideration and the remaining claims 1-4, 10 and 11 were rejected under 35 USC § 103(a) as unpatentable over PCT Application WO 96/29578 (Reference N) in view of U.S. Patent 6,405,178 to Manchala et al. (Reference A). Claim 17 has been canceled and claim 18 has been added. Thus, claims 1-16 and 18 remain in the case. The Examiner's rejections are traversed below.

Election/Restrictions

In the Office Action mailed December 14, 2004, the Examiner restricted claim 12 because "the method can be practiced by human intervention e.g., the step of calculating may be done by a human." Therefore, claim 12 has been amended to recite "[a] merchandise order method implemented using a computer" (claim 12, line 1) and by adding "automatically" to clarify that the calculating step is not performed manually. To avoid a repetition of the restriction requirement based on an assertion that the selecting, preparing and placing operations could be performed manually, these operations are now recited as being "automatically" performed. It is submitted that "receiving an order signal" (claim 12, line 3) and the new operation of "receiving price signals" (claim 12, line 7) combined with the recitation of "a computer" in the preamble prevents these operations from being performed manually also.

As result of the amendments to claim 12, there is no basis for not examining claims 12-16 together with the apparatus claims, since the operations recited in claim 12 are recited as being performed by the elements of claim 1. Therefore, it is respectfully requested that the restriction be withdrawn, since the scope of claims 1 and 12 is substantially the same and only the type of claim is different. The differences in the classification of claims 1 and 12 identified in the December 14, 2004 Office Action are irrelevant, because claim 12 requires the use of an apparatus and therefore, any U.S. patent which meets the limitations recited in claim 12 would be cross referenced in both of the classes identified by the Examiner.

Further, it is noted that the Examiner identified claim 1 as generic. Therefore, if claim 1 is allowed, all of claims which depend therefrom should be allowed, including the withdrawn claims 5-9.

Rejections under 35 USC § 103

On pages 2-4 of the Office Action, claims 1-4, 10 and 11 were rejected under 35 USC § 103(a) as unpatentable over WO 96/29578 in view of Manchala et al. In rejecting the claims, it was asserted that WO 96/29578 disclosed the receiving unit and prediction/calculation unit recited in claim 1, citing "interface 104" and page 17, lines 18-34. As illustrated in Fig. 2A and described at page 7, line 30 to page 8, line 13, IMP Interface module 104 receives information regarding "[a] level of the chemical in the storage tank 102" (page 7, line 32). As described at the cited portion of page 17, "inventory management system 10 predicts storage tank product levels based on forecasted and actual usage rates" (page 17, lines 18-19). Using this prediction, "the inventory management system 10 determines whether a low product level will occur, or whether the storage tank 102 can hold the full quantity of chemical scheduled to be shipped. Based upon these evaluations, appropriate shifts (changes) are made to the delivery schedule and/or quantity" (page 17, lines 29-34). Thus, the inventory management system 10 does not take into account "purchase history of a purchaser" (claim 1, line 5), but only the date on which the next shipment is to be made to ensure that the chemical in the tank will not be depleted before the next shipment and there will be sufficient room in the tank to receive the full shipment.

The Office Action asserted that column 6, lines 23-30 Manchala et al. discloses "an order preparation unit" (page 3, line 5), which the Applicants assume was a reference to the "order information preparation unit" (claim 1, line 10). This portion of Manchala et al. is part of the description of "Rules for Leeway" and "Rules for Negotiation". No mention has been found anywhere in either of these sets of rules regarding "a purchase state within the calculated period" (claim 1, line 11). Thus, even if the "Rules for Leeway" taught by Manchala et al. are added to the order adjustment calculations taught by WO 96/29578, there would be no suggestion of selecting a price available during a period that is calculated "based on purchase history" (claim 1, line 5).

Furthermore, claim 1 has been amended to add "a shop information acquisition unit acquiring, from each of a plurality of shops, selling prices of the merchandise for a specified period and recording the selling prices of the merchandise for the specified period by associating the selling prices with shop names and selling dates" (claim 1, lines 7-9) which corresponds to the information stored in shop selling price table 26 illustrated in Fig. 7 of the application. In rejecting claim 2, it was asserted that Manchala et al. discloses "setting a purchase day in col. 6 and when and where the merchandise can be purchased most cheaply, taking into consideration, the calculated period" (Office Action, page 3, lines 10-12). No indication was provided in

the Office Action regarding specifically where in column 6, either a "calculated period" or "setting a purchase day" was taught. Neither the word "period" nor "day" appear in column 6 of Manchala et al. If the Examiner maintains the rejection of claim 1 after the amendments made herein, the Examiner is respectfully requested to identify where Manchala et al. discloses the limitations asserted to be disclosed therein according to the paragraph on the bottom of page 3 of the Office Action, as well as the limitations as now recited in claim 1.

For the above reasons, it is submitted that claim 1 patentably distinguishes over WO 96/29578 in view of Manchala et al. Since claims 2-11 depend from claim 1, it is submitted that claims 2-11 similarly distinguish over the applied art for at least these reasons.

In addition to the amendments made to claim 12 to remove the basis for the restriction requirement, claim 12 has been amended in a manner similar to claim 1. Therefore, it is submitted that claim 12 and claims 13-16 which depend therefrom patentably distinguish over the applied art for reasons similar to those discussed above with respect to claim 1.

New Claim 18

Claim 18 has been added to recite a calculation unit, storage unit and ordering unit that perform operations similar to those of the prediction calculation unit, shop information acquisition unit and order information preparation unit recited in claim 1. Included in the operations performed by the units recited in claim 18 are "calculating a first period of time left until a remaining quantity of merchandise will be exhausted based on purchase history of the purchaser" (claim 18, lines 2-3), "recording, for a plurality of shops, shop names, selling dates and selling prices of the merchandise for a second period of time" (claim 18, lines 4-5) and "outputting order information for one of the shops where the merchandise can be purchased most cheaply on a purchase date within the first and second periods, based on the selling prices and selling dates of the merchandise recorded by said storage unit" (claim 18, last three lines). Therefore, it is submitted that claim 18 patentably distinguishes over the applied art for reasons similar to those discussed above with respect to claim 1.

Summary

It is submitted that the references cited by the Examiner, taken individually or in combination, do not teach or suggest the features of the present claimed invention. Thus, it is submitted that claims 1-16 and 18 are in a condition suitable for allowance. Reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

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Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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